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# FARM BUILDINGS PROPERTY TAX EXEMPTION HISTORY

Before 1918 the Constitution of North Dakota did not allow exemption from property taxes for buildings. In November 1918 the voters approved an amendment to what is now Article X, Section 5, of the Constitution of North Dakota which allowed the Legislative Assembly to classify buildings as personal property and thereby exempt selected buildings from property taxes.

The first property tax exemption for agricultural buildings in North Dakota was enacted by passage of 1919 Senate Bill No. 44. That bill simply provided exemption from property taxes for "all structures and improvements on agricultural lands." The bill contained no definition of the terms "structures and improvements" or "agricultural lands." The farm building exemption is presently contained in subsection 15 of North Dakota Century Code Section 57-02-08.

For a period of 50 years the farm building exemption was changed very little, although a presumption was added that any parcel of property of less than five acres was not a farm. It appears that application of the exemption became more difficult as "nonfarmers" began moving to rural areas, and a 1969-70 Legislative Council interim Finance and Taxation Committee report recommended an amendment to increase the statutory presumption of the size of a farm from 5 to 10 acres and to require that not less than 50 percent of total gross annual income of the farmer and the farmer's spouse must be derived from the farmland. The report states that testimony indicated there was a problem in some areas when persons who were not farmers built houses out of the city limits and claimed the property was exempt under the farm structure exemption. The 1971 Legislative Assembly approved House Bill No. 1057 as recommended by the Legislative Council study but deleted the requirement of 50 percent of the farmer's income coming from the farmland.

Passage of 1973 Senate Bill No. 2318 was apparently intended by the Legislative Assembly to restrict the application of the farm building exemption. This 1973 legislation introduced several new concepts such as application of income limitations, activities limitations, and retirement considerations. The bill included a statement of intent of the Legislative Assembly that the exemption as applied to a residence was to be strictly construed and interpreted to exempt only a residence situated on a farm occupied or used by a person who is a farmer. The bill defined the term "farm" as agricultural land containing a minimum of 10 acres which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, with not less than 50 percent of the person's annual net income, and the bill defined the term "farmer" to mean an individual who normally devotes the major portion of the person's time to the activities of producing products of the soil, poultry, livestock, or dairy farming and who normally receives not less than 50 percent of the person's annual net income from these listed activities. The bill also defined the term "farmer" to include an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.

Passage of 1981 House Bill No. 1542 further restricted the farm building exemption by defining income from farming activities, requiring that a husband and wife who reside in a residence claimed as exempt must receive not less than 50 percent of combined net income from all sources from farming activities, and allowing the assessor to require that the occupant of a residence who is claiming the agricultural building exemption file a written statement regarding the income qualifications of the applicant and spouse.

Passage of 1983 Senate Bill No. 2313 added the requirement that the individual and spouse claiming the exemption could not qualify for the exemption if the individual and spouse had more than $20,000 of nonfarm income during each of the three preceding calendar years. This provision does not apply to an individual who is retired from farming and otherwise qualifies for the exemption. This annual nonfarm income limitation was increased from $20,000 to $30,000 per year for three preceding calendar years by passage of 1985 Senate Bill No. 2409.

Passage of House Bill No. 1615 in the November 1991 special legislative session provided that any structure or improvement located on platted land within the corporate limits of a city or any structure or improvement located on railroad operating property subject to assessment by the State Board of Equalization is not exempt as a farm structure.

Passage of 1995 House Bill No. 1202 provided that "livestock" as used in the exemption includes "nontraditional livestock."

Passage of 1997 House Bill No. 1280 replaced the requirement that the farm must normally provide the farmer with 50 percent or more of annual net income with a provision that would disqualify the farmer from the farm residence exemption if the farmer receives more than 50 percent of annual net income from nonfarm income during each of the three preceding calendar years. Passage of 1997 House Bill No. 1301 increased from $30,000 to $40,000 the limitation on nonfarm income during each of the three preceding calendar years which would disqualify the farmer from the farm residence exemption. This bill also provided that a farmer operating a bed and breakfast facility would not be disqualified from the farm residence exemption because of income from operation of the bed and breakfast facility.

Passage of 1999 House Bill No. 1053 replaced the disqualification for earning 50 percent or more of annual net income from nonfarm income in each of the three preceding calendar years with a requirement that annual net income from farming activities must be 50 percent or more of annual net income during any of the three preceding calendar years. The bill also allowed a beginning farmer to qualify for the exemption by excluding consideration of that person's three preceding calendar years of farm income. Passage of 1999 House Bill No. 1054 expanded the farm building exemption to include feedlots and buildings used primarily, rather than exclusively, for farming purposes. Passage of 1999 House Bill No. 1363 allowed addition of depreciation expenses from farming activities to net farm income for purposes of qualifying for the exemption.